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| 10/571,985 | 01/05/2007 | Joachim Beine | 1131-18-PCT-PA-TD | 5542 |
| 22145 7590 01/03/2011 KLEIN, O'NEILL & SINGH, LLP 18200 VON KARMAN AVENUE SUITE 725 IRVINE, CA 92612 | | | | |
| EXAMINER | | | | |
| WILLIAMS, STEPHANIE ELAINE | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/571,985

Applicant(s)

BEINE ET AL.

Examiner

STEPHANIE E. WILLIAMS

Art Unit

3754

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-41 is/are rejected.
- 7) ☒ Claim(s) 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-942)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 19-26,29-31,37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Cobb (3,727,803).

3. The Cobb reference discloses apparatus and method of a molded container (see fig.1) capable of holding liquid infusion, said container including a plurality of walls including a first side wall (11) and a second side wall (11), two collapsible walls (near 13; see figs. 1&2) each being disposed in between the first side wall (11) and the second side wall (11), a bottom wall (10) configured for standing upright (see fig.1), and a shoulder portion (sloped portion above 11; see fig.1) having a port (at 12) for filling fluid into or discharging fluid out of an interior cavity (inside of container) defined by the plurality of walls, wherein the bottom wall (10) includes an interior wall surface (inside surface of bottom wall) and an exterior wall surface (outside surface of bottom wall) and a fold line (col.2, lines 17-20) separating the interior wall surface into a first interior section and a second interior section; and wherein portions of the first interior section and the second interior section of the bottom wall (10) move closer to one another and wherein portions of the exterior wall surface (outside surface of bottom wall) of the bottom wall (10) move outwardly away from the interior cavity (inside of container) from

a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses (see fig.4).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 32-36,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Schaefer (4,986,053).

The Cobb reference discloses substantially all the structure and functionality of the invention; however the Cobb reference lacks the pre-form of the container being a multi-layer pre-form consisting of an overall wall thickness.

The Schaefer teaches a the method of manufacturing the perform of the container having a multi-layer perform consisting of an overall wall thickness (see fig.1); and wherein at least one of the layers is a layer of adhesive agent (18); and wherein at least one of the layers is a layers is made from an ethylene/vinyl alcohol material (14); and wherein an outer layer is made of a polyamide or a polyester material (16) for the purpose of holding/packaging a various of products.

Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have reasonably modified the container of the Cobb device to have a perform container with multi-layers as taught by Schaefer in order to provide a holding for certain volatile materials without shorting the life use of the container itself.

3. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Schaefer (4,986,053) as applied to claim 38 above, and further in view of Larkin et al. (4,547,900).

The Cobb and Schaefer references disclose substantially all the structure and functionality of the invention; however the both references lack two ports at the discharge end of the container.

The Larkin et al. reference teaches a container for liquids having a discharge end consisting of two ports (13,14) for the purpose of being sealed until dispensing of contents takes place. Larkin further discloses a of

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the Cobb device to provide the method of having two ports at the discharge end as taught by Larkin et al. in order to provide orifices to dispense liquid from the container therethrough.

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Larkin et al. (4,547,900).

The Cobb reference discloses substantially all the structure and functionality of the invention; however the Cobb reference lacks a container with a port having a pierceable membrane.

The Larkin et al. reference teaches a container for liquids having a discharge end having at least one port (13) with a pierceable membrane (15,17) for the purpose of withdrawing liquid from the container.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the Cobb device to have a port with a pierceable member as taught by Larkin et al. in order to provide the user with a sanitary and safe way of drawing fluid from the container.

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Braun (3,171,412).

The Cobb reference discloses substantially all the structure and functionality of the invention; however the Cobb reference lacks the bottom wall of the container having a projecting suspension plug.

The Braun reference teaches a container (11) for biological liquids having a bottom wall with a projecting suspension lug (12) for the purpose of suspending the container to expel the liquids efficiently from the container.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have reasonably modified the bottom wall of Cobb device to

have a projecting suspension plug as taught by Braun in order to provide the user with hand off way of dispensing fluids from the container as desired.

Allowable Subject Matter

6. Claim 42 is objected to as being dependent upon a rejected base claim, but would appear to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 10/25/2010 have been fully considered but they are not persuasive. With regards to independent claims 19,29, and 38 the Applicant argues that the Cobb reference does not disclose no portions of the base (10) moves outwardly away from the interior cavity from a first position to a second position further outwardly when the container collapses. The Office disagrees. As seen figure 4 and as described in the specification of Cobb in col.2 lines 6-9, "that its possible to fold up opposite edges of the base 10 towards the centre line of the container about the line along which the shorter parallel sides of the two trapezoids are joined as shown in Fig.4. Therefore, as the container is gradually collapsing towards its flattened condition the base moves outwardly away from the interior cavity of the container until its completely flattened; and as shown in figure 4, the flatten base resembles a trapezoid shape on the front and back surfaces of the base. The Cobb reference solely and in combination with Schaefer, Larkin, Braun references meets the limitations of the claims (including the dependent claims); and thus the Office stands on the above rejections.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE E. WILLIAMS whose telephone number is (571)272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Bomberg/
Primary Examiner, Art Unit 3754

/S. E. W./
Examiner, Art Unit 3754